

ANDOVER BOARD OF HEALTH
Minutes
April 4, 2011, 6:00 P.M.
1st Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

- **Regular Meeting of February 28, 2011**
 - **On Page 1, under • 6:00 p.m. – David Kiu for Peking Garden – Show Cause Hearing (Continued)** – Second paragraph first sentence, change “...but that *six* months have gone by...” to “but that *eighteen* months have gone by...”

Motion by Ms. Martin seconded by Dr. Miller to approve the Minutes of the Meeting of February 28, 2011, with the noted correction. Unanimous approval.

II. Appointments & Hearings

- **6:00 p.m. – Charles Eliopoulos for My Brothers Place – Show Causing Hearing (Continued)** – Present were Mr. Eliopoulos, his wife Anna, his son Peter, and Michelle Cramm, Consultant. Mr. Carbone informed the Board that an inspection was conducted in the beginning of March and more major violations were found, which resulted in the issuance of an Emergency Closure Order. Mr. Carbone recommended that the Board permanently revoke the Food Service Establishment License. Ms. Martin asked Mr. Eliopoulos to explain why things had gotten so bad. Mr. Eliopoulos explained that they had sewerage issues and sewerage backed up into the basement, but he had thought the liquid was melting snow. That issue has been cleared up. There was also an issue with the refrigerator in the basement because the door does not close properly due to a defective seal.

The family explained at length the amount and extent of cleaning that took place in the restaurant. They power washed, cleaned the hood, removed and cleaned all shelving in the refrigerator, removed the file cabinet, and hired a power cleaning company to clean the floor among other things. The whole family scrubbed all surfaces to make sure everything was clean. Ms. Cramm stated that she called the maintenance man for the Management Company and told him that the floor tiles needed to be replaced, and the floor repairs are now done. When she reinspected today, she found some food that had to be disposed of and an area that was not power washed, which was quickly taken care of. The issue with the walk-in refrigerator is

that a section of the gasket came off and light can be seen through a section of the door. Peter explained that he took temperatures in several areas of the unit and found that he could maintain proper temperatures. He also stated that a new door for the unit has been ordered, but will take approximately four weeks to be delivered.

Mrs. Eliopoulos stated that she used to come and do cleaning once in a while, but now is totally committed to coming every day after work to make sure the cleaning is being maintained. She also has made up a daily and weekly checklist and plans to continue working with the Consultant, Ms. Cramm. Ms. Cramm informed the Board that she advised Mr. Eliopoulos that sometimes staff has to be replaced if they are not willing to do their jobs properly. She believes that with continued inspections and advice, they will properly maintain the cleanliness that now exists. Ms. Martin stated that the Board had been working with Mr. Eliopoulos for two years and with such a prior history, she needed to see a very strong commitment so that things do not get that bad again. She also wanted to make sure that the employee whose ServSafe Certification has expired becomes recertified.

Motion by Dr. Miller, seconded by Ms. Kellman to continue the Show Cause Hearing for three months, with the requirement of monthly private inspections. Discussion followed.

Ms. Martin stated that she would like to add to the Motion because she wanted to make sure that there is a contract in place for cleaning. She needs to see a ServSafe training schedule, and wants to make sure the door replacement is completed. She would allow them six weeks to get the door replacement done, which would be May 15, 2011. The Board would also want them to make up a monthly checklist, and Ms. Cramm stated that she would work with them to set that up. Mr. Carbone stated that he didn't believe the staff should take the ServSafe course again, but that the one-on-one with the Consultant would still be the best route to go. After the motion below, Mr. Carbone made arrangements to deliver a letter in the morning to reinstate the Food Service Establishment License.

Motion by Ms. Martin, seconded by Dr. Miller to amend the Motion with the additional requirement to replace the walk-in refrigerator door by May 15th, 2011, establish contract cleaning, create a monthly cleaning checklist, keep ServSafe Certification current for Mr. and Mrs. Eliopoulos, and have the employee whose Certification has expired become recertified. Unanimous Approval.

- **6:20 p.m. – Boston King Café – Show Cause Hearing for License Suspension or Revocation (Continued)** – Present were owner, Sun B. Son, and his employee, David Connors. Mr. Carbone explained to the Board that Ms. Patricia Crafts, Health Agent, conducted an inspection on March 8, 2011 and found so many problems with cleanliness that she offered the suggestion that Mr. Son could voluntarily close or she would probably need to come back with a Closure Order. Mr. Son voluntarily closed for cleaning and requested another inspection on March 10, 2011. Ms. Crafts found that the establishment was still not cleaned enough. The restaurant reopened on March 11, 2010. Ms. Crafts conducted another inspection and found the

establishment to still be unclean. There is a concern that the establishment has only been open since 2008 and this degree of uncleanliness was not acceptable. Mr. Son explained that he does have a cleaning contract in place with two companies; one for cleaning the hood and one for the grease trap. He also stated that he now cleans the floors daily and has changed the pipe to the grill so that it can be pulled away for cleaning.

Ms. Martin asked why Mr. Son thought things got so bad. He replied that he had to pay rent for fourteen months before opening, and when he first opened he had no trouble paying the rent, but as the recession continued he found his bills were very hard to pay. He had to let a lot of his staff go, so he could not keep up with the cleaning. He did try to sell the business, but since his rent was behind, he has had court issues to deal with. Right now he only has two employees and family and friends who are helping him. He has one person clean everywhere between 2:30 p.m. and 4:00 p.m. every day. Mr. Carbone asked Mr. Son how he plans on making changes now and how he has addressed the problems. Mr. Son replied that he borrowed more money and stressed to his staff how important cleaning is. The establishment is now clean and he intends to keep it that way. Now business has picked up and he is in better financial shape. Dr. Miller asked if the only issue was cleanliness and Mr. Carbone responded that the food handling was satisfactory and the temps were good. Dr. Miller asked how Mr. Son planned to proceed if he experiences money problems again. Mr. Son replied that last year when business was down, he cut dinner out of the menu and only sold food for breakfast and lunch. Now that the economy is better than last year he thinks he can now break even and hopefully increase business in the future.

Motion by Ms. Martin, seconded by Dr. Miller to continue the Show Cause Hearing for three months to the regularly scheduled July Board of Health Meeting with the requirement that an inspection is done prior to coming back before the Board. Unanimous approval.

III. Discussion

- **Town Meeting Articles:**

- **Article P-14, Revolving Accounts** - This Article was submitted for the authorization of revolving funds for certain Town departments, including the Community Development & Planning Department. The Board backed this Article.
- **Article P-18, Renewable Energy Facilities –Feasibility Study for Municipal Land** – This Article was submitted to see if the sum of \$25,000 should be allocated to determine the feasibility of locating solar or other renewable energy facilities on municipally owned properties. Dr. Miller asked if the Town was looking to offset some of their energy costs, and Mr. Carbone responded that Paul Materazzo, the Town of Andover Planning Director, has been working very hard to get and research renewable energy options. There

are a couple of projects that, if approved, could make us a totally green community; meaning we could produce enough clean energy to power five to six thousand homes. The Board decided to take no position on this Article because the Board determined this was outside the realm of the Board of Health.

- **Article P-20, Conservation Land Acquisition Fund** – This Article was submitted to allow the Conservation Commission to purchase land on Willard Circle. The Board decided to take no position on this Article.
- **Article P-21, Grant Application for Fosters Pond Conservation Land** - This Article was submitted to allow the Conservation Commission to apply for grant money to subsidize a purchase of land. The Board decided to take no position on this Article.
- **Article P-30, Storm Drain Improvements** - This Article was submitted to address flooding and standing water issues. The Board decided to take no position on this Article.
- **Article P-48, General Bylaw Amendment – Bow Hunting Ban (P)** – Present were Mr. Robert Dalton, Andover Firefighter, and Craig Liversidge, Andover resident, to ask the Board not to support the ban. Ms. Kellman stated that she noticed once an article comes on the internet, it gets repeated over and over and wanted to make sure of the facts. Mr. Dalton explained that he did not research the internet, instead he studied fish and wildlife biology in college, worked for Mass Wildlife, and studied deer tick population in the Quabin and effects it had on the ecosystem and water sheds there. Studies have found that Massachusetts and New England always have the highest cases of Lyme Disease which are associated with the highest deer densities. Some areas of New England do not have a large deer population and that there are not as many cases of Lyme Disease in those areas. Most cases are concentrated in the urban areas because there is less hunting access. Mass Wildlife estimates that the deer population is 25 to 30 deer per square mile. They determine this by how many deer are killed and also by tranquilizing and tracking deer. Ms. Kellman asked how large of an area is the 25 to 30 density, and Mr. Dalton explained that Massachusetts breaks down the State into zones, and Andover is in zone 10. Mr. Dalton provided the Board with a Massachusetts Fish & Wildlife magazine which contains the maps of the different Wildlife Management Zones in Massachusetts.¹ He pointed out that some states have a high deer population and hunters think that is good, but it is not good for the ecosystem or the deer population. Dr. Miller asked if Mr. Dalton knew how many deer had been taken down. Mr. Dalton replied that the numbers haven't come in yet, but in past years the average has been 25 checked in per year. North Andover has more hunting including the use of firearms and brings in 60 or more and their Lyme Disease cases have been

¹ The magazine, Massachusetts Fish & Wildlife has been added to the packet after page 44.

stable over the last ten years, while Andover's has gone up 60% in the last four years. Mr. Dalton asked that the Board take a position and not support the Article.

Mr. Liversidge addressed an article written by Sonya Christianson who is the State Deer Biologist who came in and gave a number of presentations for Conservation and AVIS. He provided the Board with a paper he wrote called "In Support of Hunting"² He explained Massachusetts law regarding deer hunting and antlerless tagging and that the numbers are different for different zones. Mr. Dalton stated that the deer population is large but not unmanageable through recreational hunting. Mr. Dalton explained that deer stay in a small area, and if you get rid of some, others do not come back to replace them. Sharp shooting would only be required if the deer population was extremely high. Dr. Miller asked if one of the issues with bow hunting is that you can injure the animal which is less humane than a quick kill by a firearm. Mr. Dalton replied that the issue is a concern with the hunters as well. There are no good numbers on how many are injured and no bow hunter wants that to happen. With bow hunting, you are in a tree and the deer is taken within thirty yards. The deer doesn't know you are there, so you can wait for a good shot and the meat of the deer is not as destroyed as it would be with a firearm.

Mr. Dalton stressed that the deer hunting program was well run, and was approved by the police. Also, the hunters that the Town allowed to hunt had to pass tests before they could hunt. Ms. Kellman asked if Mr. Dalton believed we could decrease the deer population with the result that the tick population will decrease also. It would be harder to defend the point of view to do bow hunting if the tick population is not lowered. Mr. Dalton stated his opinion that the deer population is low enough still where he hopes we can make a dent in stabilizing the incidences of Lyme Disease.

Note: The packet contains detailed information for anyone who would like more information concerning Lyme Disease, ticks and the effects of deer populations.

Motion by Ms. Martin, seconded by Dr. Miller, to recommend disapproval of Article P-48. Unanimous approval.

- **Mosquito Control Best Management Practice Plan & Vector Management Plan**
– Mr. Carbone provided this to the Board for informational purposes. Dr. Miller asked about the high WNV activity area in North Andover in 2010 and what the extenuating circumstances were that made the control measures less than satisfactory. Mr. Carbone explained that since so many residents requested their property to be a "No Spray Zone" they couldn't spray enough area to make a difference.

² The paper titled "In Support of Hunting" was added to the packet after page 44 after the magazine Massachusetts Fish & Wildlife.

- **National Public Health Week** – Mr. Carbone informed the Board that Public Health Week is this week and that there is a display upstairs in the second floor hallway. There would be no special clinical work this year. In the past we have done an evening presentation, but did not offer that this year either. The theme this year is prevention of injuries: “Safety is no Accident: Live Injury Free”. Hopefully, in the Spring we can have a speaker come in some evening.

IV. Old Business

- **Permit Software Update (Not on Agenda)** – Mr. Carbone updated the Board on the progress of the permitting software, View Permit. Last week all CD&P Department Staff submitted all the permits and applications we use. Next, we will make flowcharts so they can see our processes. We are on track to get started by the end of August or beginning of September for implementation. Then, inspections can be tracked through this new software. Ms. Kellman stated that she hoped food inspections of criticals would be available on-line so the Board could see the history. Mr. Carbone explained that there is a module to do inspections electronically, but the Town cannot fund that expense at this time.
- **Summer Camps Update (Not on Agenda)** – The Board discussed the new policy from last year that requires any camp held on Town property be held to the same standards of all camps in Town. Mr. Carbone spoke with Chris Bergeron, and reminded him that this needs to be done properly and in a timely fashion.
- **59 Harold Parker Road Update (Not on Agenda)** – Ms. Martin asked if Mr. Carbone could put a deed restriction on the five-bedroom house that the owner considers a four-bedroom house. Mr. Carbone replied that we can only utilize what the regulations allow, and that is what he has done. Mr. Carbone wrote him a letter stating that he needs to come in and close out the revised Building Permit. He was in the office this morning, but Mr. Carbone did not have an opportunity to speak with the Building Inspector. Mr. Carbone thought the Building Inspector was going out to do a final inspection so the Certificate of Occupancy could be issued, which would close out the Building Permit. Mr. Carbone did make it very clear in his letter to the owner that he felt the septic system is under designed and could fail in the future.

V. Definitive Subdivision Plans

- N/A

VI. Plan Review

A. D.W.R.P. Variances/Local Upgrade Approval (LUA)

- N/A

VII. Staff Reports

A. Director's Report:

- **Important Dates:**

- April 27th & 28th @ 7 p.m. – Annual Town Meeting
- May 9th, 2011 – Board of Health Meeting
- June 13th, 2011 – Board of Health Meeting

B. Nurses' Reports for February, 2011 – The Nurses' Reports for February, 2011, were for informational purposes only.

C. Inspectors' Reports for February, 2011 – The Inspectors' Reports for February, 2011 were for informational purposes only. Mr. Carbone informed the Board that our Plumbing Inspector gave his notice and will be leaving shortly. He was part-time and that didn't work out for him. Mr. Carbone has taken on more administrative duties in the past two years which pulls him away from his own Public Health work.

VIII. Board Member Reports

- N/A

IX. Adjournment

Motion by Ms. Martin, seconded by Ms. Kellman, to adjourn at 8:12 p.m. Unanimous approval.